

Application No. 10/078,409
Reply to Office Action of July 3, 2003

REMARKS

New claims 21-42 have been added. Claims 21 and 22 depend from claim 1 and require the presence of a retinoid and a vitamin, respectively. Support for these new claims exists, *inter alia*, at page 10, lines 1-2. Claims 23-42 correspond to claims 1-17 and 20-22 except that they require the presence of a hydroxystilbene solubilizing effective amount of polyol to be present. Support for these claims exists in the original claims, page 3, lines 16-18, page 10, lines 1-2 and the examples.

Claims 1-42 are currently pending.

The Office Action rejected (1) claims 1-5, 9, 14-17 and 20 under 35 U.S.C. §103 as obvious over U.S. patent 6,124,364 (“Breton”); (2) claims 6, 10-13, 18 and 19 under 35 U.S.C. §103 as obvious over Breton in view of U.S. patent 5,658,575 (“Ribier”); and (3) claims 1-9, 14-17 and 20 under 35 U.S.C. §103 as obvious over U.S. patent 6,358,517 (“Pillai”). In view of the following comments, Applicants respectfully request reconsideration and withdrawal of these rejections.

As noted in the present specification, hydroxystilbenes have low solubility in cosmetic solvents and, in fact, tend to crystallize in cosmetic compositions. (See, e.g., page 3, lines 8-11). This crystallization/lack of solubility can hinder the hydroxystilbene’s effectiveness/activity and can change the overall stability and/or appearance of the composition. (See, e.g., page 3, lines 11-15).

The present invention addresses these crystallization/lack of solubility problems associated with hydroxystilbenes. Specifically, the present invention relates to combining sufficient polyol with hydroxystilbenes to solubilize them. None of the cited art teaches or

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suggests combining a hydroxystilbene with a hydroxystilbene solubilizing effective amount of a polyol. Accordingly, the present invention represents an advance in the art deserving of patent protection.

Specifically, neither primary reference (Breton and Pillai) discloses or suggests combining at least one hydroxystilbene with sufficient polyol to solubilize the hydroxystilbene(s). Neither reference discusses or recognizes solubility problems associated with hydroxystilbenes and, thus, neither reference can purport to address such problems.

Breton discloses compositions containing polyol and hydroxystilbene in ratios no greater than 10:1. Example 2's ratio is 10:1 (5 g butylene glycol, 0.5 g reserveratrol), example 3's ratio is 2.5:1 (2 g glycerin, 0.8 g reserveratrol), example 4's ratio is 10:1 (10 g glycerin, 1 g reserveratrol) and example 5's ratio is 1.4:1 (7 g butylene glycol, 5 g reserveratrol). Pillai's example 5's ratio is a mere 1.5:1 (3% butanediol, 2% reserveratrol). As demonstrated in the examples of the present application (pages 27-30), hydroxystilbenes are not solubilized in compositions having a polyol:hydroxystilbene ratio which is significantly greater than 10:1. Thus, it follows that ratios of 10:1 or less are insufficient to solublize hydroxystilbene. Thus, Breton's and Pillai's exemplified compositions neither teach nor suggest the claimed invention. Moreover, neither Breton nor Pillai teaches or suggests that significantly more polyol should be added to their compositions to solubilize the hydroxystilbene present.

Ribier cannot compensate for Breton's or Pillai's deficiencies. Ribier does not disclose or suggest compositions containing both a hydroxystilbene and a polyol, nor does Ribier disclose or suggest solublizing hydroxystilbenes with polyols.

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In view of the above, Applicants respectfully request reconsideration and withdrawal of the rejections under 35 U.S.C. §103.

Finally, the Office Action rejected claim 20 under 35 U.S.C. §112, first paragraph, as not being enabled for prevention of skin aging. Applicants respectfully submit that their deleting “prevention” from claim 20 has rendered this rejection moot and that, accordingly, the rejection should be withdrawn.

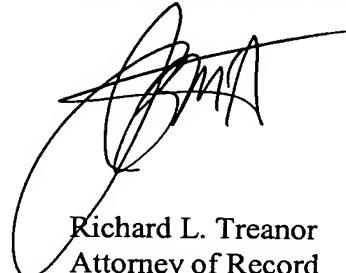
Applicants believe that the present application is in condition for allowance. Prompt and favorable consideration is earnestly solicited.

Respectfully submitted,

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